

Message Text

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ACTION L-03

INFO OCT-01 ARA-16 ADP-00 SCSE-00 SCA-01 JUSE-00 SSO-00

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FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC IMMEDIATE 2893

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E.O. 11652: N/A

TAGS: SNAR, CPRS, AR (RUSSO, MICHEL)

SUBJ: EXTRADITION CASE OF MICHEL RUSSO

REF: DEPT A-3208, APRIL 12, 1973

1. EMBASSY LEARNED JULY 17TH THAT JUDGE LUCIO E. HERRERA, OF FEDERAL COURT HAD PREVIOUS DAY RULED ON U.S. REQUEST FOR EXTRADITION AND DENIED SAID REQUEST. AFTER ORAL REPRESENTATIONS TO MINISTRY OF JUSTICE BY EMBASSY, FEDERAL ATTORNEY MIGUEL ANGEL ALMEYRA PRESENTED TO FEDERAL COURT AN APPEAL TO JUDGE HERRERA'S DECISION. IT IS LIKELY THAT APPEALS COURT WILL RULE ON CASE WITHIN NEXT TWO WEEKS.

2. IN INTERVIEW TODAY WITH DR ALMEYRA, HE INFORMED EMBASSY THAT JUDGE'S DECISION BASED ON FACT THAT RUSSO ACTUALLY UNDER ARREST ON AUGUST 30, 1972 AND UNDER CONTINUOUS DETENTION FROM THAT DATE TO THIS, THEREFORE CONSPIRACY AS STATED BY GRAND JURY COULD NOT HAVE CONTINUED UNTIL THE DATE OF THE INDICTMENT. ALSO, SAID THE JUDGE, SINCE CONSPIRACY ON PART OF RUSSO HAD TO HAVE TERMINATED WITH HIS ARREST AND CONTINUOUS DETENTION, THE CURRENT EXTRADITION TREATY NOT RELEVANT SINCE IT WAS SIGNED ONLY ON SEPTEMBER 15, 1972 AND CAME INTO EFFECT ON THAT DATE. OLD TREATY OF 1896 DID NOT COVER IN ARTICLE 2 THE CHARGE OF CONSPIRACY OR TRAFFICKING IN NARCOTICS. ASSUMING THE GENERALLY ACCEPTED BASIS FOR EXTRADITION OF "FOR THE GOOD OF SOCIETY", THE JUDGE WAS OBLIGED TO CONSIDER ARGENTINE LAW WHICH WOULD BE MORE FAVORABLE TO THE ACCUSED. THUS

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HE FELT THAT THE STATUTE OF LIMITATIONS OF FIVE YEARS IN THE CON-CRETE ACT OF RUSSO'S OCTOBER 1967 IMPORTATION OF 9 KILOS OF HEROIN PRECLUDED HIM FROM CONSIDERING DEPORTATION UNDER THIS ASPECT OF THE LAW SINCE MORE THAN 5 YEARS HAD PASSED BETWEEN THE OCTOBER 1967 ACT AND THE INDICTMENT BY THE U.S. FEDERAL GRAND JURY IN FEBRUARY 1973.

3. EMBASSY IS HAVING "COURTESY ASSISTANCE" OF CRIMINAL ATTORNEY IN FIRM OF BRONS AND SALAS AND WE WILL ENDEAVOR TO PREPARE COGENT ARGUEMNTS WHICH ARGENTINE FEDERAL ATTORNEY CAN USE IN PREPARING HIS CASE FOR APPEALS COURT. ANY HELP OR SUGGESTIONS DEPARTMENT CAN PROVIDE WOULD BE APPRECIATED.

4. THOUGH EMBASSY OFFICER DID NOT SEE COURT RULING IN REQUEST FOR CHIAPPE EXTRADITION, EMBASSY UNDERSTANDS COURT RULING WAS THE SAME AS ABOVE. HOWEVER IN CHIAPPE CASE SINCE HE CONSIDERED TO BE CURRENTLY FUGITIVE FROM JUSTICE, COURT HAS NOT ACTUALLY PUBLISHED DECISION.

5. EMBASSY WILL TRANSLATE AND SEND TO DEPARTMENT COURT RULING IN RUSSO DECISION.
KREBS

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